

**THE LAW OFFICES OF MARTIN E. RESTITUYO, P.C.**  
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January 22, 2019

**VIA ECF Filing**

Hon. Paul G. Gardephe  
United States District Court Judge  
Thurgood Marshall  
United States Courthouse  
40 Foley Square, Room 705  
New York, NY 10007

**Re:** *Fitz v. Bethel Gourmet Food Corp.*, CA No. 17-cv-08919

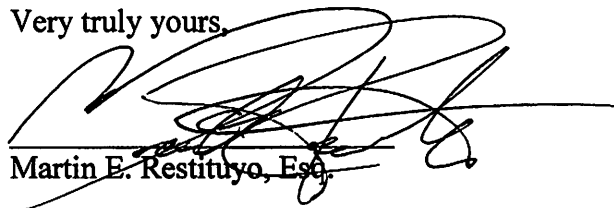
Dear Judge Gardephe:

In accordance to the Court's order of January 17, 2019 [Dkt #29] Plaintiffs once again propose the appointment of Mark S. Gottlieb as the independent auditor to review Defendants' finances as per the settlement agreement in this case. Annexed herewith please find Mr. Gottlieb's resume and his firm's fee schedule.

We thank the Court for its renewed consideration of this candidate.

Should the Court require additional information, please advise so that we may provide accordingly.

Very truly yours,



Martin E. Restituyo, Esq.

## BACKGROUND

With over 30 years of experience, Mark S. Gottlieb is an accomplished forensic accounting and business valuation specialist with expertise in record reconstruction and litigation support. Mr. Gottlieb is recognized for the meticulous preparation and comprehensive research he brings to all of his professional engagements. Since forming MSGCPA, Mr. Gottlieb has lead a team of highly qualified professionals in conducting forensic accounting examinations, independent business and professional practice valuations, and a continuum of financial and economic analyses. He is frequently appointed by the court to provide these services and expert testimony. Mr. Gottlieb has also lectured extensively to many government agencies and professional organizations on accounting, tax, economic development and valuation/appraisal issues. Previously, Mr. Gottlieb was employed by the international accounting and consulting firms of PriceWaterhouseCoopers (formally Coopers & Lybrand) and Ernst & Young (formally Ernst & Whinney).

## EDUCATION

- Bachelor of Business Administration in Accounting – Adelphi University (May 1983)
- Master of Science in Taxation – Long Island University (May 1993)

## PROFESSIONAL MEMBERSHIPS

- State of New York Grievance Committee for the Tenth Judicial District – Committee Member (2015 to Present)
- Brandeis Association Scholarship Fund – Treasurer (2015 to Present)
- New York State Society of Certified Public Accountants – Business Valuation Committee Member (2013 to Present)
- New York State Society of Certified Public Accountants – Litigation Support Committee Member (2013 to Present)
- Institute of Business Appraisals – Education Board (2011 to 2012)
- New York State Society of Certified Public Accountants – Mediation and Arbitration - Committee Member (2002)
- Five Towns Community Chest – Treasurer (2001)
- Bar Association of Nassau County – We Care Fund (2000 to 2010)
- Great Neck Chamber of Commerce (2000 to 2002)
- Great Neck Lawyers Association (1999 to 2002)



## MARK S. GOTTLIEB



Email: [msgcpa@msgcpa.com](mailto:msgcpa@msgcpa.com)

### Areas of Expertise

- Business Valuation
- Forensic Accounting
- Litigation Support
- Expert Witness

### Licenses, Accreditations and Certifications

- Certified Public Accountant (CPA) in New York and Connecticut
- Accredited in Business Valuation (ABV)
- Certified in Financial Forensics (CFF)
- Certified Valuation Analyst (CVA)
- Certified Business Appraiser (CBA)

**MARK S. GOTTLIEB, CPA, PC**

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## **FACULTY POSITIONS**

- New York Law School, Adjunct Professor (Fall 2003 to Fall 2006)
- European School of Economics, Adjunct Professor (Fall 2006)
- Pace University, Adjunct Professor (Summer 1997)

## **PROFESSIONAL ORGANIZATIONS**

- American Institute of Certified Public Accountants
- New York State Society of Certified Public Accountants
- National Association of Certified Valuation Analysts
- Institute of Business Appraisers

## **SPEAKING ENGAGEMENTS (Condensed Summary)**

### **2016**

June, 2016	Business Valuation: Litigation, Arbitration and Mediation Strategies for Getting the Right Price New York County Lawyers' Association, New York, New York
June, 2016	Finding the Money – What Divorce Attorneys Should Know Rockland County Bar Association, New City, New York
May, 2016	Advanced Risk Issues in Business Valuations New York State Society of CPAs, New York, New York
April, 2016	Advanced Risk Issues in Business Valuations American Society of Appraisers – Philadelphia Chapter, Plymouth Meeting, Pennsylvania

### **2015**

November, 2015	Advanced Risk Issues in Business Valuations Business Valuation Resources, Webinar
October, 2015	Finding Hidden Treasures in Tax Returns Certified Divorce Financial Analyst Annual Conference, New York, New York
March, 2015	Finding Hidden Treasures in Tax Returns Rockland County Bar Association, New City, New York

### **2014**

October, 2014	Forensic Accounting & Income Tax Issues Related To Divorce New York Society of Independent Accountants, Elmsford, New York
June, 2014	Forensic Accounting in A Litigation Environment Brooklyn Bar Association, Brooklyn, New York

April, 2014	Introduction to Business Valuation University at Albany, Albany, New York
February, 2014	Fundamentals of Business Valuation Rockland County Bar Association, New City, New York
January, 2014	Lifestyle Analysis in Matrimonial Actions New York City Bar Association, New York, New York
 <b>2013</b>	
September, 2013	Lifestyle Analysis in Matrimonial Actions Rockland County Bar Association, Rockland, New York
 <b>2012</b>	
June, 2012	Financial Boot Camp for Matrimonial Attorneys Melville Marriott Long Island, Melville, New York
March, 2012	Divorce Attorney's Guide to Reading Financial Statements Mark S. Gottlieb, CPA, PC Great Neck, New York
January, 2012	Hot Issues in Valuing Businesses for A Divorce Collaborative Divorce Attorneys of Fairfield County, Stamford, Connecticut
 <b>2010</b>	
October, 2010	Lifestyle Analysis in Matrimonial Actions Fairfield County Bar Association, Stamford, Connecticut
September, 2010	Lifestyle Analysis in Matrimonial Actions Brooklyn Bar Association, Brooklyn, New York
 <b>2007</b>	
July, 2007	Valuing Closely Held Businesses National Business Institute, State Bank of Long Island, Melville, New York
June, 2007	The Forensic Accountant's Role In Divorce Engagements Pace University Law School, White Plains, New York
 <b>2006</b>	
December, 2006	Valuing a Law Practice Nassau County Bar Association, Mineola, New York

**2005**

October, 2005                      Forensic Accounting for Business Appraisers  
International Business Brokers Association Incorporated, Las Vegas, Nevada

**2003**

December, 2003                  Forensic Accounting Opportunities for CPAs  
Tax & Accounting Institute, Brookville, New York

October, 2003                    Forensic Accounting: An Overview for the Practicing Attorney  
Nassau County Bar Association, Mineola, New York

October, 2003                    Forensic Accounting: An Overview for the Practicing Attorney  
Suffolk County Bar Association, Hauppauge, New York

September, 2003                Forensic Accounting: An Overview for the Practicing Attorney  
Brooklyn County Bar Association, Brooklyn, New York

September, 2003                Forensic Accounting: An Overview for the Practicing Attorney  
Queens County Bar Association, Jamaica, New York

**2002**

September, 2002                Appraising Law Firms  
New York State Society of CPAs, New York, New York

May, 2002                         Appraising Law Firms  
Nassau County Bar Association, Mineola, New York

**2001**

December, 2001                Business Valuations for Estate & Gift Tax  
Tax & Accounting Institute, Brookville, New York

1990 – 2001                      Small Business Tax Workshop  
Internal Revenue Service

1990- 2001                      Tax Workshop  
New York State Department of Taxation and Finance, Albany, New York

1990 – 2001                      Self-Employment Program Training  
New York State Department of Labor, Albany, New York

**1999**

November, 1999	Valuing Professional Practices and Licenses Richmond County Bar Association, Staten Island, New York
October, 1999	Entrepreneurial Assistance Program Brooklyn Economic Development Corporation, New York, New York
September, 1999	Methods of Valuing a Business Business Outreach Center, Corona, New York
March, 1999	Business Valuations for Estate & Gift Tax Nassau County Bar Association, Mineola, New York
March, 1999	Getting Down For Business Forum New York City Department of Business Services, New York, New York
February, 1999	Advanced Issues of Managed Care & What It Means to Physicians Practicing in New York SouthShore PPO Incorporated, Woodmere, New York
February, 1999	All about Appraisals: An Aid for Litigators Suffolk County Bar Association, Hauppauge, New York

**BLOG PUBLICATIONS (available at [www.msgcpa.com](http://www.msgcpa.com))****2016**

June, 2016	Discretionary Expenses in Business Valuations
April, 2016	Dealing with Fraud: A Simple Four Step System
April, 2016	A Business Valuation Analysis Can Help Increase the Value of Your Business
February, 2016	Valuing Covenants Not to Compete

**2015**

April, 2015	Types of Fraud in Business
February, 2015	Estate Tax Strategies for Second Marriages
February, 2015	5 Services Forensic Accountants Provide During a Matrimonial Dispute That May Surprise You
February, 2015	Hidden Taxes in Divorce

January, 2015                      Why You Should Farm Out Business Valuation to Specialty Firms

**2014**

November, 2014                      Cross-Examining a Financial Expert – Part 1

October, 2014                      Understanding Risk in Business Valuation

October, 2014                      Transfer Pricing and Related Valuation Issues

October, 2014                      Top 10 Thing Attorneys Need at the Start of Matrimonial Action

October, 2014                      Lifestyle Analysis

October, 2014                      Goodwill Impairment Testing

October, 2014                      Hidden Treasures in Tax Returns

October, 2014                      A Guide of Fairness Opinions

October, 2014                      Identifying Business Perks

October, 2014                      Imputed Income: Definition, Calculation, and Evidence

October, 2014                      The Fraud Triangle

October, 2014                      Calculating Economic Damages

September, 2014                      Cash Businesses and Divorce

September, 2014                      Normalizing Owners' Compensation in Business Valuation

March, 2014                      Using Business Valuation Experts to Your Best Advantage in Divorce

March, 2014                      A Panel Discussion on Proposed Maintenance Guidelines.

February, 2014                      Uncovering & Understanding Hidden Fees in a 401(k) Plan with Miriam Schindel, Esq.

February, 2014                      An Attorney's Guide to Same-Sex Marriage Tax Issues."

**2013**

February, 2013                      An Attorney's Guide to Understanding Business Valuation Standards

March, 2013	Using Business Valuation Experts to Your Best Advantage in Divorce
<b>2011</b>	
September, 2011	An Attorney's Guide to the Recent IRS Changes Regarding Innocent Spouse Relief
March, 2011	Valuing Small Businesses
February, 2011	The Joint Appraiser's Role in a Divorce Action
February, 2011	Valuation Issues in the Bankruptcy Process
January, 2011	8 Minefields Attorneys Should Avoid Before Presenting Your Valuation Report to the Court
January, 2011	Fraud in the Workplace
<b>2010</b>	
December, 2010	Cliff Lee's Earnings Capacity Is At Its Peak. Would He Be Able to Keep It All If He Divorced In New York?
November, 2010	An Attorney's Guide To Divorce-Related Tax Issues
October, 2010	New York State's New Legislation Impacts the Financial Concerns of Family Law
September, 2010	Determining Lost Profit v. Lost Business from the Financial Expert's Perspective
August, 2010	Hiring a Forensic Expert Early in a Lost Profits Case Yields High Dividends
July, 2010	Finding Hidden Treasures in Tax Returns
July, 2010	The Honorable Sondra Miller's Take on No-Fault Divorce
June, 2010	New York State Senate's Democratic Majority Passes Legislative Package to Approve No-Fault Divorce
June, 2010	Panel of Experts Discuss New York State's Current Legislation to Develop Maintenance/Alimony Guidelines
April, 2010	Major Changes in New Jersey's Palimony Law
April, 2010	Madoff Scam Hits Divorce Court



April, 2010	Proposed Changes to Federal Rule of Civil Procedure 26
April, 2010	Merger and Acquisition Disputes in Challenging Economic Times
March, 2010	Parenting Plans Considerations When Divorcing
March, 2010	Defining Fair Value in Shareholder Disputes

#### **INDUSTRY STUDIES (available at [www.msgcpa.com](http://www.msgcpa.com))**

Accounting	Electrical Contracting	Metal Services
Anesthesiology	Executive Recruiting	Physician
Audio & Video Postproduction	Grocery Stores	Refrigerated Warehousing
Check Cashing	Healthcare Administration	Security
Commercial Construction	Home Health Care	Specialty Food
Day Camp	Jewelry – Retail	Steel
Drug Stores	Landscape Counseling	Ticket Brokerage
Drug Testing	Laundromat	Youth Athletics
eBay	Medical & Diagnostic Laboratories	

#### **WHITEPAPER PUBLICATIONS (available at [www.msgcpa.com](http://www.msgcpa.com))**

##### **Business Valuation**

November, 2014	8 Minefields to Avoid before Presenting Your Valuation Report to the Court Cross Examining a Financial Expert
November, 2014	Valuation Issues in the Bankruptcy Process
October, 2014	Identifying Business Perks
October, 2014	An Attorney's Guide to Understanding Business Valuation Standards
September, 2014	Normalizing Owners' Compensation in Business Valuation

September, 2014      Why You Should Farm Out Business Valuation to Specialty Firms

February, 2014      Understanding Risk in Business Valuation

December, 2013      Valuing Small Businesses

August, 2008      Understanding Risk in Business Valuation Study

### **Economic Damages**

November, 2014      Hiring a Forensic Expert Early in a Lost Profits Case Yields High Dividends

October, 2014      Calculating Economic Damages

### **Financial Advisory**

October, 2014      Transfer Pricing and Related Valuation Issues

October, 2014      Goodwill Impairment Testing

February, 2014      A Guide to Fairness Opinions

December, 2013      Merger and Acquisition Disputes in Challenging Economic Times

November, 2011      An Attorney's Guide to Fairness Opinion

September, 2011      IRS Job Aid Resource Guide

June, 2011      Uncovering & Understanding Hidden Fees in a 401(K) Plan with Miriam Schindel, Esq.

### **Forensic Accounting**

October, 2014      Fraud in the Workplace

June, 2014      Determining Lost Profit v. Lost Business from the Financial Expert's Perspective

### **Matrimonial & Divorce**

December, 2014      Estate Tax Strategies for Second Marriages

December, 2014      Hidden Taxes in Divorce

November, 2014      5 Litigation Services Forensic Accountants Provide During a Matrimonial Dispute That May Surprise You

October, 2014	A Practical Resource for all Matrimonial Attorneys – In 3 Parts
October, 2014	Top 10 Things Attorneys Need at the Start of Matrimonial Action
September, 2014	Cash Businesses and Divorce
February, 2014	Using Business Valuation Experts to Your Best Advantage in Divorce
February, 2014	An Attorney's Guide to Divorce-Related Tax Issues
February, 2014	The Joint Appraiser's Role in a Divorce Action
December, 2013	Enhanced Earnings Capacity
December, 2013	An Attorney's Guide to Same-Sex Marriage Tax Issues
December, 2013	An Attorney's Guide to the Recent IRS Changes Regarding Innocent Spouse Relief
June, 2012	An Attorney's Guide to Enhanced Earnings Capacity Part 1
February, 2012	Joint Appraisers Role in a Divorce Action
January, 2012	Same-Sex Marriage Tax Consequences
November, 2011	Innocent Spouse Relief
September, 2011	Matrimonial Resource Guide
July, 2011	Attorney's Guide to Divorce Related Tax Issues
December, 2010	Cliff Lee's Earnings Capacity Is At Its Peak. Would He Be Able to Keep It All If He Divorced in New York?
October, 2010	New York State Senate's Democratic Majority Passes Legislative Package to Approve No-Fault Divorce
July, 2010	The Honorable Sondra Miller's Take on No-Fault Divorce
April, 2010	Major Changes in New Jersey's Palimony Law
March, 2010	Parenting Plans Considerations When Divorcing

January, 2010	Madoff Scam Hits the Divorce Court
December, 2008	Sample Lifestyle Analysis Report
January, 2008	Finding Hidden Treasures in Tax Returns

### **Shareholder Disputes**

October, 2014	The Fraud Triangle
October, 2014	Imputed Income: Definition, Calculation, and Evidence
September, 2014	Farming Out Business Valuation to Specialty Firms
January, 2010	Defining Fair Value in Shareholder Disputes

### **PODCASTS (available at [www.msgcpa.com](http://www.msgcpa.com))**

#### **Business Valuation**

June 1, 2011	Understanding Risk in Business Valuation
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#### **Financial Advisory**

December 3, 2010	An Attorney's Guide to Cross Examining Financial Expert Witnesses with Mark H. Sobel, Esq.
June 29, 2010	Uncovering & Understanding Hidden Fees in a 401(K) Plan with Miriam Schindel, Esq.
April 22, 2010	Whistleblower Claims with Ellen August, Esq.

#### **Divorce & Matrimony**

June 1, 2011	Finding Hidden Treasures in Tax Returns - Related to the Divorce Process
May 12, 2011	Divorce Mediation with Alan S. Rubenstein, Esq.
October 19, 2010	2010 Changes to New York Divorce Laws with Henry Berman, Esq.
June 29, 2010	NYS Senate Approves Legislation to Permit No-Fault Divorce with the Honorable Sondra Miller
May 12, 2010	New Palimony Law in New Jersey with Stephanie Hagan, Esq.
March 23, 2010	Divorce During an Economic Downturn with Sherri Donovan, Esq.

March 19, 2010 Initial Documents for a Divorce with Eric Broder, Esq.

March 6, 2010 The Madoff Mess Hits Divorce Court with Eric Solotoff, Esq.

March 6, 2010 Parenting Plans with Leonard G. Florescue, Esq

January 25, 2010 Prenuptial Agreements-Financial Considerations for Attorneys

#### **Shareholder Disputes**

March 23, 2010 NJ Bar Looks to Modify LLC Act With Daniel Gielchinsky, Esq.

March 6, 2010 Fair Value with Peter Mahler, Esq.

#### **Economic Damages**

April 9, 2010 Determining Economic Damages

#### **PUBLICATION CONTRIBUTIONS**

January 4, 2012 IRS Eases Restrictions on 'Innocent Spouse' Tax Cases by Tim Grant  
*Pittsburgh Post-Gazette*

August 30, 2007 Jewelers Post Same-Store Sales, Earnings by David Koenig  
*Associated Press*

August 30, 2007 Tiffany, Zale Report Profits, Earnings by David Koenig  
*Associated Press*

July 13, 2007 Accountants: Always Check the Claims by Carrie Mason-Draffen  
*Newsday*

January 21, 2007 Accountants in Demand, Companies are Hungry for Qualified Candidates as  
 Government Rules Keep Numbers-Crunchers Busy by Carrie Mason-Draffen  
*Newsday*, pp. F6

July 27, 2003 Tracking Down Wrong Numbers - Forensic Accountants Are Increasingly On the  
 Case Uncovering Corporate Misdeeds by Carrie Mason-Draffen  
*Newsday*, pp. F4

June 12, 2000 Accounting for Tastes: Firms Vary the Mix by Laurie Joan Aron  
*Crain's New York Business*, pp. 26

September 28, 1998 Accountant's New Practices Put Price on Businesses by Susan Kleinman  
*Crain's New York Business*, pp. 14

September 1, 1997	Network Strives to Rebuild Industrial Base by Michael Hirsch <i>Crain's New York Business</i> , pp. 16
March 10, 1997	No ifs, ands or UBTs in City? Mayor Wants to Curb Tax by Cara S. Trager <i>Crain's New York Business</i>
December 9, 1996	Simple Plan May Lead to Easy St. by Lisa Goff <i>Crain's New York Business</i>
October 7, 1996	Citi Banks on PC Product to Lure Small Businesses by Frederick Gabriel <i>Crain's New York Business</i>
September, 1996	By Setting up Spending Plan, Owners Can Cash in on Success by Lisa Goff <i>Crain's New York Business</i>
July 29, 1996	Chase Slashes Banking Fees for Small Business by Frederick Gabriel <i>Crain's New York Business</i>
June 10, 1996	Banks See Fall Off in Small Firm Loans by Frederick Gabriel <i>Crain's New York Business</i>
February, 1996	What's the IRS Holdup? by Patricia M. Carey <i>Home Office Computing</i> , pp. 38
February, 1996	Don't Rush To Spend Windfall by Lisa Goff <i>Crain's New York Business</i>
October 2, 1995	BONY Breaks Big Push to Lure Small Business by Frederick Gabriel <i>Crain's New York Business</i>
July 24, 1995	IDing Contractors and IRS Obsession by Patricia M. Carey <i>Crain's New York Business</i>
July 24, 1995	Outfits Ride Coattails of Acquisition Fever by O.P. Malik <i>Crain's New York Business</i>
March, 1995	When Firms Sit on Tax They Cross a Fine Line by Matthew Flamm <i>Crain's Small Business</i> , pp. 4, 16
April 3, 1992	Starting Your Own Business by Caryn Eve Murray <i>Newsday</i> , pp. 29

**MEDIA APPEARANCES**

March, 1997                      *The Morning Show*  
Mr. Gottlieb was interviewed to discuss Mayor Rudy Giuliani's proposal to curb the New York City Unincorporated Business Tax.

June, 1995                      *Bloomberg Morning News*, June 1995  
Mr. Gottlieb was interviewed to discuss whether a balanced budget or tax cut would best stimulate the economy.

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<p style="text-align: center;"><b>White Plains, NY</b>  <b>50 Main Street</b>  <b>Suite 1000</b>  <b>White Plains, NY 10606</b>  <b>Tel: 914-294-4300</b>  <b>Fax: 914-294-5302</b></p>	<p style="text-align: center;"><b>Stamford, CT</b>  <b>One Stamford Plaza</b>  <b>263 Tresser Boulevard, 9th Floor</b>  <b>Stamford, CT 06901</b>  <b>Tel: 203-357-1500</b>  <b>Fax: 203-357-1505</b></p>	<p style="text-align: center;"><b>Roseland, NJ</b>  <b>101 Eisenhower Parkway</b>  <b>Suite 300</b>  <b>Roseland, NJ 07068</b>  <b>Tel: 973-226-4500</b>  <b>Fax: 973-226-4508</b></p>

**SECTION III: FEE and BILLING**

**Hourly Billing Rates:** Our fees are based on the amount of time we spend working on the engagement. Hourly rates charged by other associates and professionals in our firm are as follows:

Mark S. Gottlieb	\$425.00
Para-professional	\$75.00
Accountant/Valuation Analyst	\$95.00 to \$325.00

**Testimony: Fees:** Fees to testify and or appear in court will be based upon a flat fee of \$2,500 per half day, payable in advance.